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Technology protection stirs inter-agency war

By Ted Agres
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As the Soviet Union attempts to steal high-technology from the United States, the government protectors of America's most precious technological secrets are at war with each other.

The opposing sides are the normally staid Commerce Department pitted against the brassy Pentagon and its ally, the no-nonsense Customs Service.

Each department charges the other with headline-seeking, mismanagement and with tolerating

massive leaks of highly sensitive information to the Soviets.

And each department is battling for turf in the high-tech export review and enforcement process.

For starters, here are some of the verbal salvos:

"The Commerce Department seems recently to have decided to become newspaper writers." — William von Raab, U.S. Customs Service commissioner.

"For the United States Customs Service to make that assertion ... is really, at least a candidate for Chutzpah of the Year Award. There is a PR machine over there [in Customs]."

William Archey, assistant secretary of commerce.

"They're trying to grind down some propaganda from the Commerce Department which just is not reflected in reality. It's outrageous."

— Stephen Bryen, deputy assistant secretary of defense.

"We've had results ... that are extraordinary. But it's not as sexy as Steve Bryen [throwing rocks] on us."

— William Archey.

Commerce, which handles the licensing process when a U.S. firm wishes to export sensitive products, wants to hold on to every bit of its turf, including its enforcement arm. But Congress, whose patience has worn thin on the matter, seems bent on giving a good chunk of it to Customs.

Because computers can launch

missiles and lasers can make nifty weapons, the Pentagon wants to review every export license request Commerce gets.

And the American businessman is caught in between. Uncle Sam encourages the businessman to sell abroad. When he tries to do so, however, he often gets mangled in a licensing process that critics say grinds slowly and not very finely.

Many observers of the battle between Commerce, Customs and Defense point to November 1983 as the start of the latest offensive.

It was then that Customs agents with their West German counterparts narrowly prevented a multi-million-dollar Digital Equipment Corp. computer from being illegally shipped to Moscow.

Commerce had made the mistake of approving the computer to be sold to a firm of questionable reputation. The company, Microelectronics Research Institute, was headquartered in South Africa and controlled by a Richard Mueller, a German national and fugitive from justice. Microelectronics already was suspected of diverting other U.S. technology.

Were it not for good gum-shoe tactics, this prized booty likely would have wound up with other U.S. computers being programmed in the Kremlin.

In December 1983, with the confiscated computer as backdrop, then-Treasury Secretary Donald Reagan (Customs is part of Treasury) and Defense Secretary Caspar Weinberger told a large press conference that the Digital VAX 11/782 could have allowed the Soviets to "produce vastly more accurate ... and more destructive weapons."

Its interdiction "prevented what could have been an espionage coup by the Soviets," the officials asserted.

Afterwards, on background, a senior Defense official trashed Commerce. "The law requires that DOD be contacted in these cases. But Commerce persistently has refused to do that," he charged. He said that the Pentagon would ask the president to give it full control over all military and technology license applications.

The Commerce Department has been hitting back.

In the latest round of the turf war, someone "made available" to the Washington Post last month a copy of an internal Commerce Department analysis blaming Customs for allowing the illegal shipment of some 87 Hughes helicopters to North Korea.

The Commerce analysis reportedly termed the operation "probably

the largest illegal diversion of U.S.-manufactured aircraft." It charged that Customs had known about the helicopter diversion for 16 months and had done nothing to prevent it.

The report stated that the Commerce Department learned about the matter independently and stepped in to halt further shipments.

This has irked Customs and Defense.

An angry Customs official said Customs told Commerce, "Look, nobody's skirts are clean on this thing. It's no good to go around pointing fingers. The helicopter issue had been brewing for several months prior to the document coming out."

Charged Customs chief von Raab: "They [Commerce] seem recently to have decided to become newspaper writers. I find it confusing. I don't know what purpose it serves."

The Commerce Department's Mr. Archey bristled in response. "That I find remarkable. There is a PR machine over there [in Customs]."

The Pentagon's Stephen Bryen said the Commerce leak was politically motivated and was an attempt to influence legislation in Congress.

Both Mr. Bryen and Mr. von Raab charged that Commerce released classified information when it leaked the report — a charge which Mr. Archey denied.

The Commerce Department also launched round two in the recent turf battle.

Commerce Secretary Malcolm Baldrige, in a letter to Defense Secretary Weinberger and others that was leaked to the press, charged that Defense, in particular, was "tolerating a massive giveaway program" of sensitive, strategic information to the Soviet Union by releasing it through the National Technical Information Service.

The NTIS is a government service which provides to the public scientific and technical documents produced by federal agencies or contractors. NTIS is a division of Commerce, but it has no say over what material is released through it.

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Mr. Baldrige charged that anyone could obtain full reports of tens of thousands of unclassified and previously classified documents for the asking. The material included Defense Department analyses of space weapons, chemical warfare, nuclear weapons, computer security, electronics, high-speed computers and much, much more.

Commerce's Mr. Archey said this continues to be a problem.

"Listen to this," Mr. Archey said, quoting a 1983 NTIS catalog. "Army Materiel and Readiness Command. Texture Strengthening of Armor Materials.' . . . Jeez."

"The strengthening of armored plates doesn't sound like something we'd like to broadcast to the world," he continued. "When the Defense

Department made the big stink about the Dresser Drill bits thing in '77, of armor-piercing projectiles, . . . we might as well throw the whole thing at 'em. I don't know."

Back at the Pentagon Stephen Bryen was adamant. "No. DOD is not giving away secrets. That's another Commerce Department operation."

Mr. Bryen maintained that most of the studies Commerce cited pre-date 1981, when the Pentagon began looking closely at the NTIS problem. "In a way it's a compliment to us, because most of the stuff predates our effort. It undoes their story," he said.

Round three in the turf war, as Mr. Bryen told it, happened a couple of weeks ago.

The Commerce Department published proposed regulations on what is called "foreign availability." This provision has been a standard one in the export licensing process for years. It simply allows a U.S. firm greater opportunity to win an export license to the Eastern bloc if it can show that a similar product already is being sold by a firm in another country.

But for such sensitive items as computers and lasers, approval is needed of allied nations in the Coordinating Committee for Multilateral Export Control. The administration has been pushing COCOM members to restrict such sales to the Soviet bloc.

The inter-agency round three developed not over the regulations themselves, but a press release Commerce put out about the regulations. Mr. Bryen charged that the press release characterized the reg-

ulations as an easing of sensitive trade with the Soviets. He said that this was just another example of Commerce improperly trying to shape foreign policy on its own.

Back at Commerce, Mr. Archey clearly was upset. "Where is that press release?" he shouted to an aide as he shuffled papers on his desk. He went to the door and demanded that another aide get some documents. His assistants scurried about.

"Oh, so [Steve Bryen] did acknowledge" that the regulations themselves were acceptable? "Good. OK, because that's not what he told another newspaper. Told them he had never seen them. And we got their approval at the deputy director of his office level.

"We not only sent the comments over to him at *my personal direction*, but I personally *orchestrated and mandated* a meeting to go through it *LINE . . . BY . . . LINE*. Precisely for the reason you are asserting," Mr. Archey declared.

All in all, Mr. Archey thought Commerce was getting a bum rap.